

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:19-cv-03265-CKK**

CENTER FOR PUBLIC INTEGRITY v. U.S. DEPARTMENT OF DEFENSE et al
Assigned to: Judge Colleen Kollar-Kotelly
Cause: 05:552 Freedom of Information Act

Date Filed: 10/30/2019
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff**CENTER FOR PUBLIC INTEGRITY**

represented by **Peter Newbatt Smith**
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ATTORNEY TO BE NOTICED

V.

Defendant**U.S. DEPARTMENT OF DEFENSE**

represented by **Amber Richer**
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LEAD ATTORNEY
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Defendant**OFFICE OF MANAGEMENT AND BUDGET**

represented by **Amber Richer**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/30/2019	<u>1</u>	COMPLAINT against All Defendants (Filing fee \$ 400 receipt number ADCDC-6492032) filed by CENTER FOR PUBLIC INTEGRITY. (Attachments: # <u>1</u> Exhibit FOIA Requests, # <u>2</u> Civil Cover Sheet, # <u>3</u> Summons DoD, # <u>4</u> Summons OMB, # <u>5</u> Summons U.S. Attorney, # <u>6</u> Summons Attorney General)(Smith, Peter) (Entered: 10/30/2019)
10/30/2019	<u>2</u>	LCvR 26.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by CENTER FOR PUBLIC INTEGRITY (Smith, Peter) (Entered: 10/30/2019)
10/31/2019		Case assigned to Judge Colleen Kollar-Kotelly. (zmc) (Entered: 10/31/2019)
10/31/2019	<u>3</u>	SUMMONS (4) Issued Electronically as to OFFICE OF MANAGEMENT AND BUDGET, U.S. DEPARTMENT OF DEFENSE, U.S. Attorney and U.S. Attorney General (Attachment: # <u>1</u> Notice and Consent)(zmc) (Entered: 10/31/2019)
10/31/2019	<u>4</u>	MOTION for Preliminary Injunction by CENTER FOR PUBLIC INTEGRITY (Attachments: # <u>1</u> Text of Proposed Order)(Smith, Peter) (Entered: 10/31/2019)

11/01/2019	<u>5</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 10/31/2019. Answer due for ALL FEDERAL DEFENDANTS by 11/30/2019. (Smith, Peter) (Entered: 11/01/2019)
11/01/2019	<u>6</u>	NOTICE of Appearance by Amber Richer on behalf of OFFICE OF MANAGEMENT AND BUDGET, U.S. DEPARTMENT OF DEFENSE (Richer, Amber) (Entered: 11/01/2019)
11/01/2019		Minute Order. The Court hereby schedules a teleconference in this matter for NOVEMBER 4, 2019 at 2:00 p.m. Counsel should be prepared to discuss the status of Plaintiff's FOIA requests as well as a briefing schedule for Plaintiff's Motion for a Preliminary Injunction. Signed by Judge Colleen Kollar-Kotelly on 11-1-2019. (lcckk3) (Entered: 11/01/2019)
11/01/2019		Set/Reset Hearings: Telephone Conference on the record set for 11/4/2019 at 2:00 PM in Courtroom 28A before Judge Colleen Kollar-Kotelly. (dot) (Entered: 11/04/2019)
11/04/2019	<u>7</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. U.S. DEPARTMENT OF DEFENSE served on 11/4/2019 (Attachments: # <u>1</u> Exhibit USPS Return Receipt–DoD)(Smith, Peter) (Entered: 11/04/2019)
11/04/2019		Minute Entry for proceedings held before Judge Colleen Kollar-Kotelly: Telephone Conference on the record held on 11/4/2019. (Court Reporter Lisa Edwards.) (dot) (Entered: 11/04/2019)
11/04/2019		Minute Order. The Court conducted a teleconference in this matter on November 4, 2019. Defendants reported that service of the Complaint and the Preliminary Injunction has been completed. However, neither Defendant has yet to make a determination of the volume of documents encompassed by Plaintiff's FOIA requests. Defendants are ORDERED to file a Response to Plaintiff's Motion for a Preliminary Injunction by NOVEMBER 12, 2019. Plaintiff is ORDERED to file a Reply in support of its Motion by NOVEMBER 14, 2019. This briefing schedule should give the parties adequate time to determine the volume of documents in Plaintiff's requests and to decide if a production schedule can be agreed upon. Signed by Judge Colleen Kollar-Kotelly on 11-4-2019. (lcckk3) (Entered: 11/04/2019)
11/04/2019		Set/Reset Deadlines: Defendants' Response to <u>4</u> due by 11/12/2019. Plaintiff's Reply to <u>4</u> due by 11/14/2019. (dot) (Entered: 11/05/2019)
11/06/2019	<u>8</u>	ORDER ESTABLISHING PROCEDURES FOR CASES ASSIGNED TO JUDGE COLLEEN KOLLAR-KOTELLY. Signed by Judge Colleen Kollar-Kotelly on 11/6/19. (DM) (Entered: 11/06/2019)
11/08/2019	<u>9</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. OFFICE OF MANAGEMENT AND BUDGET served on 11/8/2019, RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 11/5/2019. (Attachments: # <u>1</u> Exhibit USPS Return Receipt–OMB, # <u>2</u> Exhibit USPS Return Receipt–AttyGen)(Smith, Peter) (Entered: 11/08/2019)
11/12/2019	<u>10</u>	Memorandum in opposition to re <u>4</u> MOTION for Preliminary Injunction filed by OFFICE OF MANAGEMENT AND BUDGET, U.S. DEPARTMENT OF DEFENSE. (Attachments: # <u>1</u> Declaration, # <u>2</u> Declaration)(Richer, Amber) (Entered: 11/12/2019)
11/14/2019	<u>11</u>	REPLY to opposition to motion re <u>4</u> MOTION for Preliminary Injunction filed by CENTER FOR PUBLIC INTEGRITY. (Smith, Peter) (Entered: 11/14/2019)
11/15/2019		Minute Order. The Court remains in the process of reviewing and considering the parties' briefing as to Plaintiff's <u>4</u> Motion for a Preliminary Injunction. The Court begins by noting that this is not the typical FOIA case. First, the House of Representatives is in the process of conducting impeachment hearings. The public is interested in information relating to those impeachment hearings and requires relevant information in order to act as an informed electorate. Second, it appears that much of the information responsive to Plaintiff's FOIA requests has also been requested by Congress as well as various other groups. By processing documents for Plaintiff's request, Defendants would also work towards resolving several other requests for the same information. Additionally, it would appear that some apportionment letters have

already been provided to Congress and that an OMB official will be deposed in a closed hearing on November 16, 2019. Third, the responsive documents have already been pulled and are likely to be electronic. Moreover, with only 500 responsive documents, a substantial number of which are duplicates, Plaintiff's request is fairly limited in scope. Based on the information which has been provided, the Court is unable to determine a reasonable timeline for processing the responsive documents, exclusive of duplicates, and releasing the non-exempt information. The Court ORDERS the parties to meet and confer and file a Joint Status Report by 10 a.m. on NOVEMBER 19, 2019. The Joint Status Report should address Plaintiff's prioritization of the documents requested. Additionally, in their Opposition, Defendants indicate that they are able to make an initial production of documents by December 20, 2019. But, Defendants fail to indicate how many documents can be processed by that date. The parties' Report should indicate whether Defendants will be able to process all the responsive documents, exclusive of duplicates, and release all non-exempt information by December 20, 2019. If not, Defendants should explain why all the responsive documents cannot be processed and all non-exempt information released by that date. In the case that Defendants determine they cannot process all responsive documents by December 20, 2019, Defendants should further indicate how many documents can be processed by December 20, 2019 and provide a reasonable schedule for processing the remaining documents and releasing the non-exempt information according to the prioritization requested by Plaintiff. Signed by Judge Colleen Kollar-Kotelly on 11-15-2019. (lcckk3) (Entered: 11/15/2019)